

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH  
BENEFITS FUND; PIRELLI ARMSTRONG  
RETIREE MEDICAL BENEFITS TRUST;  
TEAMSTERS HEALTH & WELFARE FUND OF  
PHILADELPHIA AND VICINITY;  
PHILADELPHIA FEDERATION OF TEACHERS  
HEALTH AND WELFARE FUND; DISTRICT  
COUNCIL 37, AFSCME - HEALTH &  
SECURITY PLAN; JUNE SWAN; MAUREEN  
COWIE and BERNARD GORTER,

Plaintiffs,

v.

FIRST DATABANK, INC., a Missouri corporation,  
and McKESSON CORPORATION, a Delaware  
corporation,

Defendants.

Civil Action: 1:05-CV-11148-PBS

Judge Patti B. Saris

**DEFENDANT MCKESSON CORPORATION'S UNOPPOSED MOTION FOR LEAVE  
TO REPLY TO PLAINTIFFS' OPPOSITION TO MCKESSON'S MOTION TO DISMISS  
AND FOR JUDGMENT ON THE PLEADINGS**

Defendant McKesson Corporation ("McKesson") seeks leave to file a reply brief in support of its motion to dismiss plaintiffs' Third Amended Complaint [Docket No. 390] and its related motion for Judgment on the Pleadings [Docket No. 391]. The underlying motion to dismiss addresses plaintiffs' failure to adequately plead a RICO violation for its newly added alleged class of consumers who pay U&C prices. Plaintiffs do not oppose the filing of McKesson's reply brief so long as they are given an opportunity to file a surreply.

McKesson seeks leave to file a reply to address plaintiffs' mischaracterizations of McKesson's opening brief arguments and to address evidence contained in plaintiffs' opposition to McKesson's pleading motions. In addition, McKesson seeks to apprise the Court of recent Supreme Court developments with respect to the requirement of reliance under RICO.

Accordingly, McKesson requests leave to file a reply brief on January 29, 2008 (a two week period from the filing of plaintiffs' opposition), with a corresponding two week period for plaintiffs to file a surreply, due February 12, 2008. McKesson seeks the setting of oral argument on a date convenient for the Court after February 25, 2008. Plaintiffs have opposed McKesson's request for oral argument.

Respectfully submitted,

McKesson Corporation  
By its attorneys:

/s/ Lori A. Schechter  
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Dated: January 18, 2008

**CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

I, Lori Schechter, counsel of record for defendant McKesson Corporation, hereby certify that McKesson's counsel conferred with counsel for plaintiffs in an effort to resolve the issue referred to in this motion, and plaintiffs have indicated that they do not oppose the motion so

long as they are given leave to file a surreply. The parties also agreed on the schedule proposed for the briefing.

/s/ Lori A. Schechter

Lori A. Schechter

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on January 18, 2008.

/s/ Lori A. Schechter

Lori A. Schechter

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH  
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OF PHILADELPHIA AND VICINITY; and  
PHILADELPHIA FEDERATION OF  
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C.A. No. 1:05-CV-11148-PBS

**[PROPOSED] ORDER REGARDING BRIEFING SCHEDULE**

January \_\_\_\_, 2008

Saris, U.S.D.J.

IT IS HEREBY ORDERED:

1. McKesson's motion for leave to file a reply to plaintiffs' opposition to McKesson's Motion to Dismiss and for Judgment on the Pleadings is GRANTED.
2. McKesson shall file its reply brief on January 29, 2008.
3. Plaintiffs shall file their surreply brief on February 12, 2008.

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Patti B. Saris  
United States District Judge